



APPLICATION ACCEPTED: May 20, 2009
PLANNING COMMISSION: July 29, 2009
BOARD OF SUPERVISORS: August 3, 2009
@ 4:00 pm

County of Fairfax, Virginia

July 15, 2009

STAFF REPORT

APPLICATION SEA 95-M-009

MASON DISTRICT

APPLICANT: Pinecrest (E&A) LLC

ZONING: C-2, C-5, HC

PARCELS: 72-1 ((1)) 20D

ACREAGE: 5.51 acres

FAR: 0.27

OPEN SPACE: 18.1%

PLAN MAP: Retail and other related uses

SE CATEGORY: Category 6; Fast Food Restaurant in a Highway Corridor Overlay District and Waiver of Open Space

PROPOSAL: Amend SE 95-M-009, previously approved for a fast food restaurant in a highway corridor overlay district, to permit an addition of land area, an expansion of the use and site modifications, and a waiver of open space

STAFF RECOMMENDATIONS:

Staff recommends approval of SEA 95-M-009, subject to the proposed development conditions in Appendix 1.

Tracy Strunk

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards; and that, should this application be approved, such approval does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 TTY 711 (Virginia Relay Center).

N:\Pinecrest Plaza SEA 95-M-009\SEA 95-M-009.doc



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Exception Amendment

SEA 95-M-009

Applicant:

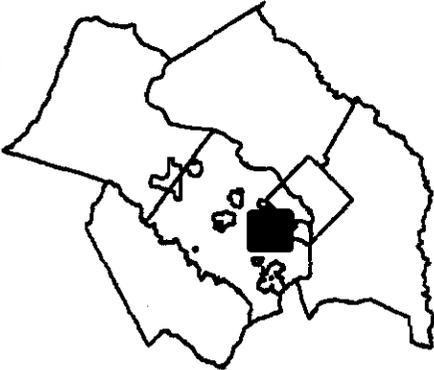
PINECREST (E&A) LLC

Accepted:

05/20/2009

Proposed:

AMEND SE 95-M-009 PREVIOUSLY APPROVED FOR FAST FOOD RESTAURANT TO PERMIT INCREASE IN LAND AREA, WAIVER OF OPEN SPACE REQUIREMENTS AND EXPANSION OF THE USE



Area:

5.51 AC OF LAND; DISTRICT - MASON

Zoning Dist Sect: 07-0607 09-0612

Art 9 Group and Use: 6-07 6-09

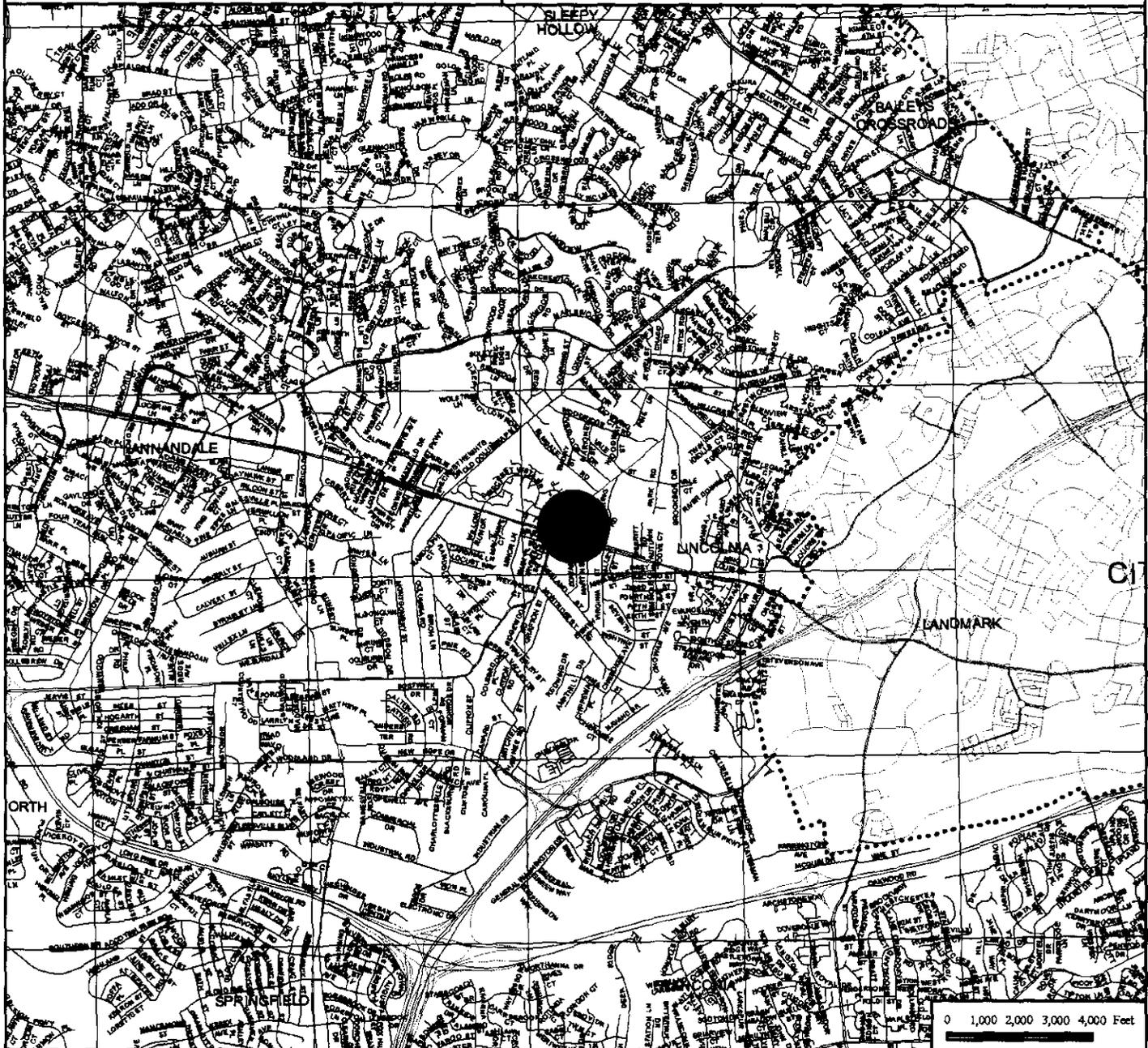
Located: 6546 - 6552 LITTLE RIVER TURNPIKE

Zoning: C-5 C-2

Plan Area: 1,

Overlay Dist: HC

Map Ref Num: 072-1- /01/ /0020D



Special Exception Amendment

SEA 95-M-009

Applicant:

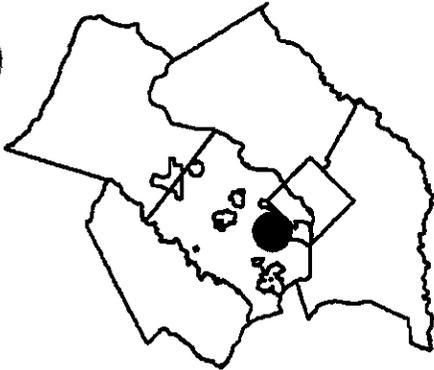
EDENS & AVANT

Accepted:

05/20/2009

Proposed:

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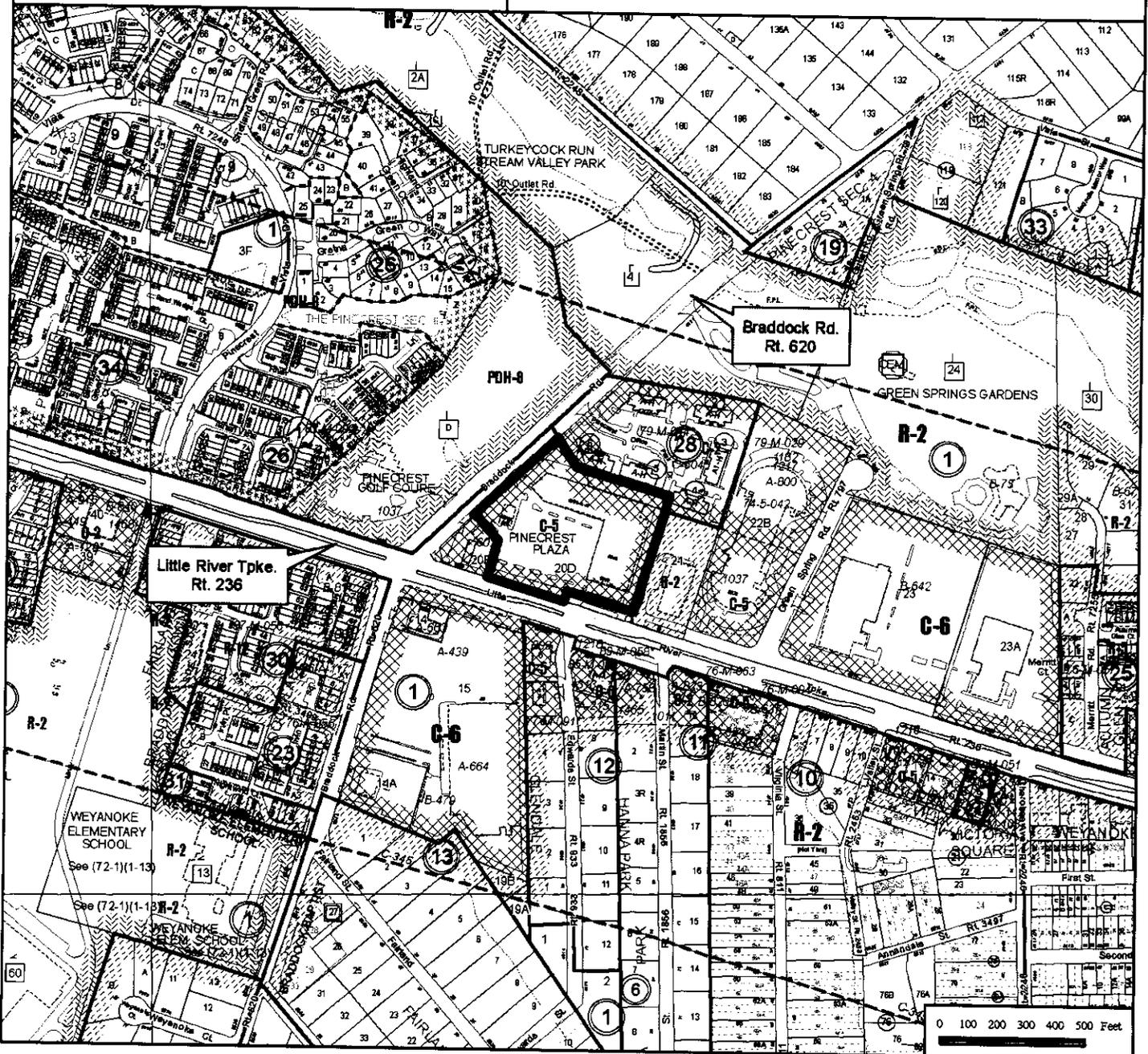
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Zoning: C-5 C-2

Plan Area: 1,

Overlay Dist: HC

Map Ref Num: 072-1- /01/ /0020D



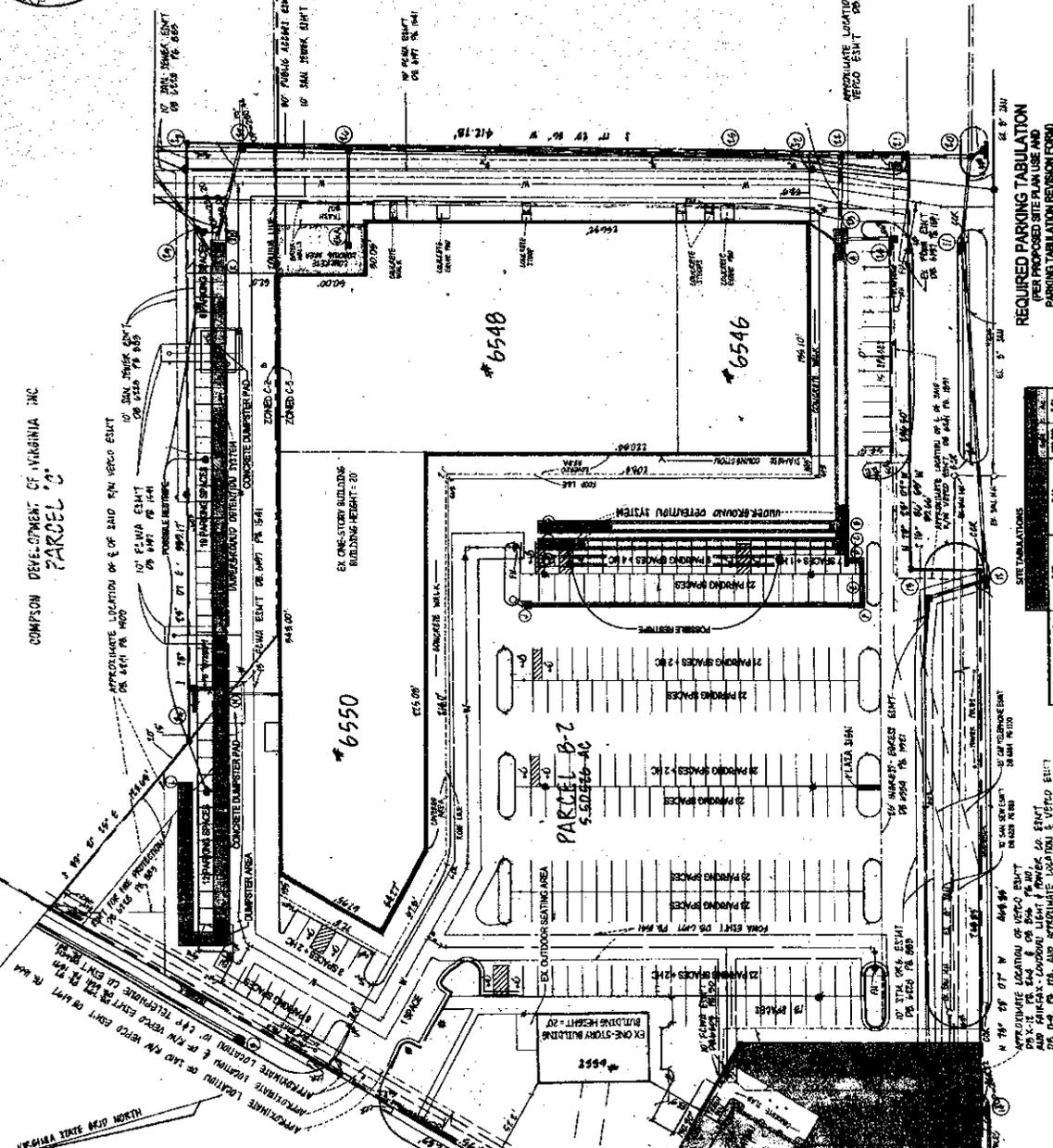


TELEPHONE COMPANY OF VIRGINIA



GRAPHIC SCALE 1" = 90'
 REVISED 7-6-09

COMPTON DEVELOPMENT OF VIRGINIA, INC.
PARCEL 'A'



REQUIRED PARKING TABULATION
 (PER PROPOSED SITE PLAN USE AND
 PARKING TABULATION REVISION FORM)

REQUIREMENT CODE	REQUIREMENT DESCRIPTION	REQUIRED PARKING SPACES
RESIDENTIAL	RESIDENTIAL	20 SPACES
OFFICE	OFFICE	20 SPACES
RETAIL	RETAIL	20 SPACES
OTHER	OTHER	20 SPACES
TOTAL	TOTAL	80 SPACES

SITE TABULATIONS

USE	AREA (SQ. FT.)	REQUIREMENT	REQUIREMENT VALUE	REVISION FORM VALUE	REVISION FORM VALUE
RESIDENTIAL	10,000	1:100	100	100	100
OFFICE	10,000	1:100	100	100	100
RETAIL	10,000	1:100	100	100	100
OTHER	10,000	1:100	100	100	100
TOTAL	40,000		400	400	400

NOTES:
 1. THE PROJECT IS LOCATED IN THE CITY OF ARLINGTON, VIRGINIA.
 2. THE PROJECT IS SUBJECT TO THE ARLINGTON ZONING ORDINANCES.
 3. THE PROJECT IS SUBJECT TO THE ARLINGTON SUBDIVISION ORDINANCES.
 4. THE PROJECT IS SUBJECT TO THE ARLINGTON UTILITY ORDINANCES.
 5. THE PROJECT IS SUBJECT TO THE ARLINGTON TRAFFIC ORDINANCES.
 6. THE PROJECT IS SUBJECT TO THE ARLINGTON ENVIRONMENTAL ORDINANCES.
 7. THE PROJECT IS SUBJECT TO THE ARLINGTON HISTORIC ORDINANCES.
 8. THE PROJECT IS SUBJECT TO THE ARLINGTON CULTURAL ORDINANCES.
 9. THE PROJECT IS SUBJECT TO THE ARLINGTON COMMUNITY ORDINANCES.
 10. THE PROJECT IS SUBJECT TO THE ARLINGTON POLICE ORDINANCES.
 11. THE PROJECT IS SUBJECT TO THE ARLINGTON FIRE ORDINANCES.
 12. THE PROJECT IS SUBJECT TO THE ARLINGTON HEALTH ORDINANCES.
 13. THE PROJECT IS SUBJECT TO THE ARLINGTON SOCIAL SERVICES ORDINANCES.
 14. THE PROJECT IS SUBJECT TO THE ARLINGTON EDUCATION ORDINANCES.
 15. THE PROJECT IS SUBJECT TO THE ARLINGTON RECREATION ORDINANCES.
 16. THE PROJECT IS SUBJECT TO THE ARLINGTON ARTS AND CULTURE ORDINANCES.
 17. THE PROJECT IS SUBJECT TO THE ARLINGTON SENIORS ORDINANCES.
 18. THE PROJECT IS SUBJECT TO THE ARLINGTON YOUTH ORDINANCES.
 19. THE PROJECT IS SUBJECT TO THE ARLINGTON FAMILY ORDINANCES.
 20. THE PROJECT IS SUBJECT TO THE ARLINGTON COMMUNITY DEVELOPMENT ORDINANCES.

BRADDOCK ROAD
 MAINTENANCE

RIVER TURNPIKE
 VARIABLE WIDTH
 ROUTE #266

**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS WILL BE
FOUND AT THE BACK OF THIS REPORT**

DESCRIPTION OF THE APPLICATION

This application is a request to amend SE 95-M-009, previously approved to permit a fast food restaurant in free standing building in a highway corridor overlay district and the C-6 District, to permit an addition of land area, an expansion of the fast food use (into a second tenant space – no physical expansion of the building), site modifications, and a waiver of open space. The original SE application was on a portion of the land area of the existing shopping center which included a free-standing building with two roughly equal tenant spaces. With the original application, one of those two spaces was proposed as a fast food use without a drive-through window (Starbucks Coffee). The current request brings the entire shopping center into the application, and proposes two fast food uses in the free-standing building, with no additional construction or other site modifications. The existing Starbucks proposes to expand; the remainder of the building is proposed to be a second fast food use (Tropical Smoothie). No drive through windows are proposed, and no additional waivers or modifications are requested. The following chart details the differences between the previously approved application and the current proposal.

	SE 95-M-009 PREVIOUS APPLICATION	SEA 95-M-009 CURRENT APPLICATION
Use	Fast Food (no drive through) in highway corridor overlay district Waiver of minimum lot size	Fast Food (no drive through) in highway corridor overlay district Wavier of open space *
Land Area	23,300 sq ft	5.51 acres
Gross Floor Area of SE fast food uses	1,280 square feet	2,560 square feet
Open Space	46%	18.1% *

* Existing conditions, no decrease in open space is proposed

LOCATION AND CHARACTER

The subject property is generally located in the northeast quadrant of the intersection of Braddock Road and Little River Turnpike (the service station at the actual corner is not included in the application property). The property is developed with the Pinecrest Plaza shopping center, and is primarily zoned C-5. A small portion of the site, along the northern boundary, is zoned to the C-2 District. The site has two points of access along Little River Turnpike and one on Braddock Road. The majority of the center is an L-shaped building with 59,932 square feet of gross floor area located along the eastern and northern sides of the site. A freestanding building with two tenant spaces and a total of 2,560 square feet is located along Braddock Road, towards the southwestern corner of the site.

SURROUNDING AREA DESCRIPTION			
Direction	Use	Zoning	Plan
North	Office Condominiums	C-2	Office
South	Service Station Retail (across Little River Tpk)	C-5, C-6	Retail
East	Telephone Facility	R-2	Retail
West	Pine Crest Golf Course	PDH-8	Public Park

BACKGROUND

On October 18, 1950, the Board of Supervisors (BOS) approved rezoning application Number 602, rezoning 4.1 acres, including what is now a portion of the Pinecrest Plaza Shopping Center, from the Rural Residence District to the General Business District (now the C-5 District), without proffers.

On March 17, 1980, the BOS approved rezoning RZ 79-M-044, rezoning 7.74 acres from the R-5 District to the C-2 and C-5 Districts with proffers, including the remainder of the shopping center.

On October 29, 1994, the BOS approved PCA 79-M-044 and PCA M-602 with proffers and a Generalized Development Plan for 6.32 acres within the C-5 District to develop the shopping center and remodel an existing service station (which is not included in the current application). The BOS also approved a concurrent special exception application for the service station, SE 84-M-104.

On July 17, 1995, the BOS approved SE 95-M-009, a special exception for fast food uses in a highway corridor overlay district and a waiver of lot size on a 23,300 square foot portion of the shopping center, encompassing the free-standing building only. See Appendix 4 for approved plans and conditions.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area I

Planning District: Lincolnia Planning District

Planning Sector: Pinecrest Community Planning Sector (L1)

Plan Map: Retail and other related uses

Relevant Plan text can be found in Appendix 5; there is no site specific text for the subject property.

ANALYSIS

Special Exception Amendment Plat (SE Plat) copy included at the front of this report

Title of SE Plat: Pinecrest Plaza
Prepared By: Dewberry and Davis
Original and Revision Dates: April 2009 as revised through July 6, 2009

The SE Plat consists of two sheets.

- **Sheet 1** includes general notes, site tabulations, parking tabulations, and the layout of the site. No changes are proposed to the physical layout of the site. Sheet 1 shows the following:
 - The 5.51 acre site is developed with an existing shopping center, with a total FAR of 0.27.
 - The majority of the site is zoned to the C-5 District (5.14 acres). All of the buildings are in the C-5 portion of the site.
 - A small area (0.37 acre) to the rear of the main building along the northern boundary is zoned to the C-2 District. No buildings are located in this area, which is used for parking.
 - An L-shaped building with 59,932 square feet of gross floor area, 20 feet in height, located along the eastern and northern sides of the site
 - A freestanding building with two tenant spaces and a total of 2,560 square feet, 20 feet in height, is located along Braddock Road (this building is the subject of the SE request for free-standing fast food uses)
 - Two entrances to the shopping center on Little River Turnpike and one on Braddock Road; all access to the free-standing building with the proposed fast food uses is internal to the shopping center.
- **Sheet 2** shows the landscape plan for the site. In addition to existing street trees along Little River Turnpike and the northern portion of the Braddock Road frontage, and parking lot trees within the parking area, the application proposes to add additional trees to that area adjacent to the free standing building along Braddock Road (site of the existing and proposed fast food uses).

Land Use/Environmental Analysis (Department of Planning and Zoning)

Transportation Analysis (Fairfax County Department of Transportation)

Urban Forestry and Stormwater Analyses (Department of Public Works and Environmental Services)

Due to the limited nature of this application, a review of this application by the agencies listed above raised no issues. Therefore, the aforementioned departments do not object to the approval of this application.

ZONING ORDINANCE PROVISIONS

Bulk Standards (C-2 and C-5)		
Standard	Required	Provided
Lot Size	40,000 sq ft (C-5)	5.51 acres
Lot Width	200 feet (C-5)	approximately 375 feet
Building Height	40 feet	20 feet
Front Yard	45° ABP, not less than 40 feet (40 feet)	52.2 feet (Braddock Road) 54.5 feet (Little River Tpk)
Rear Yard	20 feet	38.9 feet
FAR	0.3 (C-5)	0.29 (C-5 only) 0.27 (entire site)
Open Space	30% (C-2) 20% (C-5)	10% (C-2) 18.7% (C-5) 18.15 (entire site)
Parking Spaces	285 spaces	285 spaces

No transitional screening or barriers are required; no waivers or modifications (other than the waiver of open space, which is part of the SE request) are requested.

It should be further noted that the special exception for the requested fast food uses is only required because the uses are located in the free-standing building. If these uses were located "in-line" in the main shopping center, no special exception would be required.

Special Exception Requirements (Appendix 6)***General Special Exception Standards (Sect. 9-006)***

The General Standards require that the proposed use be in harmony with the adopted Comprehensive Plan and in harmony with the general purpose and intent of the applicable zoning district regulations; that the proposed use will not adversely affect the use or development of neighboring properties; that pedestrian and vehicular traffic associated with the use will not create hazards or conflict with the existing and anticipated traffic in the neighborhood; and that landscaping, screening, open space, adequate utility, drainage, signage, parking and loading spaces be regulated in accordance with the Zoning Ordinance. As noted, no substantive changes are proposed to the development on the property, which proposes to replace a hair salon with a fast food use (with no drive through window). The use is in conformance with the Comprehensive Plan recommendations, and no changes are proposed to parking or circulation on the site. Staff believes these standards are met.

Provisions for Approving...Fast Food Restaurants...in a Highway Corridor Overlay District (Sect. 9-611) & Highway Corridor Overlay District Use Limitations (Sect. 7-608)

These standards require that the use be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties, that access be designed so not to impede traffic on a public street intended to carry through traffic, and that there be no outdoor storage or display of goods offered for sale. As noted, no substantive changes are proposed to the site, and a development condition addresses the outdoor storage. These standards are addressed.

Provisions for Waiving Open Space Requirements (Sect. 9-612)

The provisions require that a waiver must "further the intent of the Ordinance, and the intent and implementation of the adopted comprehensive plan," be harmonious with adjacent development, and meet screening and barrier requirements. The Comprehensive Plan and the Zoning Ordinance both recognize that the revitalization of existing developments is desirable, even if such centers do not meet all current standards. The applicant is proposing to add landscaping to existing open space areas, and is not reducing the amount of open space on the site. No transitional screening or barriers are required of this site. Staff believes these standards are met.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

The applicant requests approval of a special exception for a facility similar to that currently approved under the existing special exception. The application proposes to expand the square footage devoted to fast food uses within an existing, free-standing building. No overall increase in floor area or drive through windows are proposed. While a waiver of open space is requested, the amount of open space on the site is an existing condition, and is not being reduced. In lieu of providing additional open space, the applicant proposes to add landscaping to an existing open space area along Braddock Road. Staff finds that the proposed use is of a design and intensity that is in conformance with the Comprehensive Plan, and with the imposition of development conditions, staff believes that the request is in conformance with the applicable Zoning Ordinance provisions.

Recommendations

Staff recommends approval of SEA 95-M-009 subject to the proposed development conditions in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Approval of SE 95-M-009
5. Plan Citations
6. Applicable Zoning Ordinance Provisions Checklist
7. Glossary

PROPOSED DEVELOPMENT CONDITIONS

SEA 95-M-095

July 15, 2009

If it is the intent of the Board of Supervisors to approve SEA 95-M-009, located at 6546-6552 Little River Turnpike, Tax Map 72-1 ((1)) 20D, previously approved for a fast food use in a highway corridor overlay district, to permit an addition of land area, fast food uses in a highway corridor overlay district and a waiver of open space, pursuant to Sect. 7-607 and 9-612 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions (which supersede all previous conditions; those carried forward from the previous approval are marked with an asterisk):

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land. *
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. By-right or special permit uses allowed by the Zoning Ordinance may be permitted on the property without a Special Exception Amendment, so long as such uses can be parked and are in substantial conformance with the SE plat.
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Pinecrest Plaza," consisting of two sheets prepared by Dewberry and Davis, and dated April 2009, as revised through July 6, 2009, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. All or a portion of the free-standing building on the site may be used for fast food uses, with no drive through windows.
5. Prior to approval of Non-residential use permit for any fast food use in the free-standing building on the site, a parking tabulation for the entire shopping center, demonstrating adequate parking for each use on the site, shall be submitted to the Department of Public Works and Environmental Services (DPWES). *
6. The new landscaping shown to be installed along Braddock Road shall be provided within six months of BOS approval of this SEA, subject to approval by the Urban Forest Management Division.

7. There shall be no outdoor storage of goods for sale. This shall not preclude the temporary outdoor display of retail goods for sale.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

SPECIAL EXCEPTION AFFIDAVIT

DATE: June 9, 2009
 (enter date affidavit is notarized)

I, Mark A. Drogalis, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

104720a

in Application No.(s): SEA 95-M-009, Pinecrest (E&A), LLC
 (enter County-assigned application number(s), e.g. SE 88-V-001)

and that, to the best of my knowledge and belief, the following information is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in BOLD print are to be disclosed. Multiple relationships may be listed together, e.g., Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Pinecrest (E&A), LLC	1901 Main Street, Suite 900, Columbia, SC 29201	Applicant/Title Owner
Edens & Avant Investments Limited Partnership	Same as Applicant/Title Owner	Agent for Applicant/Title Owner
Mark A. Drogalis, Esq.	Same as Applicant/Title Owner	Attorney/Agent for Applicant/Title Owner
Steven F. Teets, L.E.	Same as Applicant/Title Owner	Agent

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Exception Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

SPECIAL EXCEPTION AFFIDAVIT

DATE: June 9, 2009
(enter date affidavit is notarized)

104720a

for Application No. (s): SEA 95-M-009, Pinecrest (E&A), LLC
(enter County-assigned application number(s))

1(b). The following constitutes a listing*** of the SHAREHOLDERS of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name and number, street, city, state, and zip code)

Pinecrest (E&A), LLC
c/o Edens & Avant Investments Limited Partnership
1901 Main Street, Suite 900
Columbia, SC 29201

DESCRIPTION OF CORPORATION: (check one statement)

- [x] There are 10 or less shareholders, and all of the shareholders are listed below.
[] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial and last name)

Edens & Avant Investments Limited
Partnership, sole member of Applicant/Title
Owner

(check if applicable) [] There is more corporation information and Par. 1(b) is continued on a "Special Exception Affidavit Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

SPECIAL EXCEPTION AFFIDAVIT

DATE: June 9, 2009
(enter date affidavit is notarized)

104720a

for Application No. (s): SEA 95-M-009, Pinecrest (E&A), LLC
(enter County-assigned application number(s))

1(c). The following constitutes a listing*** of all of the PARTNERS, both GENERAL and LIMITED, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, and number, street, city, state, and zip code)

Edens & Avant Investments Limited Partnership
1901 Main Street, Suite 900
Columbia, SC 29201

(check if applicable) [] The above-listed partnership has no limited partners:

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

Table with 3 columns: Partner Type, Partner Name, and Ownership/Interest. Includes General Partner (Edens & Avant Administrative LLC) and Limited Partners (E&A Northeast Holdings, LLC, E&A Affiliates, LP, and Edens & Avant Properties Trust).

(check if applicable) [x] There is more partnership information and Par. 1(c) is continued on a "Special Exception Affidavit Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Special Exception Attachment to Par. 1(c)

DATE: June 9, 2009
(enter date affidavit is notarized)

104720a

for Application No. (s): SEA 95-M-009, Pinecrest (E&A), LLC
(enter County-assigned application number (s))

PARTNERSHIP NAME & ADDRESS: (enter complete name & number, street, city, state & zip code)

Edens & Avant Properties Trust
c/o Edens & Avant Investments Limited Partnership
1901 MNain Street, Suite 900
Columbia, SC 29201

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLES OF THE PARTNERS: (enter first name, middle initial, last name, and title, e.g., General Partner, Limited Partner, or General and Limited Partner)

Trustees: There are eight (8) named individuals who are trustees of the Trust, none of whom hold a 10% or greater interest in Applicant/Title Owner.

Beneficiaries: State Treasurer of the State of Michigan Retirement System, State Employees' Retirement System, Michigan Judges' Retirement System ("SMRS") SMRS holds a 31.56% interest in Applicant/Title Owner; however, no one individual pension beneficiary has greater than a 10% interest in Applicant/Title Owner.

New York State Teachers' Retirement System ("NYSTRS") NYSTRS holds a 31.09% interest in Applicant/Title Owner; however, no one individual pension beneficiary has greater than a 10% interest in Applicant/Title Owner.

E&A Retail Investments LLC ("Retail"). The sole member of Retail is JP Morgan Chase Bank, as Trustee under Amended & Restated Trust dated November 13, 2001, as amended, for its Commingled Pension Trust Fund (Strategic Property) (the "JP Morgan Trust") Retail holds a 31.09% interest in Applicant/Title Owner; however, no individual beneficiary of the JP Morgan Trust has a greater than 10% interest in Applicant/Title Owner.

(check if applicable) There is more partnership information and Par. 1(c) is continued further on a "Special Exception Attachment to Par. 1(c)" form.

SPECIAL EXCEPTION AFFIDAVIT

DATE: June 9, 2009
(enter date affidavit is notarized)

104720a

for Application No. (s): SEA 95-M-009, Pincrest (E&A), LLC
(enter County-assigned application number(s))

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Exception Attachment to Par. 2" form.

Application No.(s): SEA 95-M-009, Pinecrest (E&A), LLC
(county-assigned application number(s), to be entered by County Staff)

SPECIAL EXCEPTION AFFIDAVIT

DATE: June 9, 2009
(enter date affidavit is notarized)

104720 a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Supervisors, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Exception Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

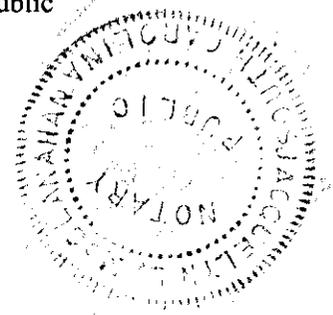
(check one) [] Applicant [x] Applicant's Authorized Agent

Mark A. Drogalis, Esq., Attorney/Agent for Applicant/Title Owner
(type or print first name, middle initial, last name, and & title of signee)

Subscribed and sworn to before me this 9th day of June 20 09, in the State/Comm. of South Carolina, County/City of Richland/Columbia.

Jacquelyn L. McLanahan
Notary Public

My commission expires: 1/28/14



RECEIVED
Department of Planning & Zoning
APR 14 2009
Zoning Evaluation: [unclear]

April 9, 2009

Fairfax County, Virginia
Department of Planning & Zoning
12055 Government Center Parkway
8th Floor
Fairfax, VA

Re: **Pinecrest Plaza
SPECIAL EXCEPTION
CATEGORY 5
To Allow Fast Food over 35% of a Building within C-5 Zone**

This Special Exception Request is to allow a Category 5 SE to allow Fast food establishment in a building with the Fast Food use covering more than 35% of the Building.

This use is being placed in an existing shopping center and an existing building. No changes to any building exterior are proposed with this Special Exception. Because of that, we humbly request modifications and /or waivers from certain submission standards for an SE in Fairfax County. They are as follows:

- **Modification to accept an As-built Survey of the property in lieu of a Certified Survey Plat, assuming the As-Built Survey will accurately depict the property and key elements therein.**
- **Waiver of the Requirement to provide a Vegetation Map, in lieu of providing a Landscape Plan with an updated inventory of the Trees on site.**
- **Waiver of providing Minimum Storm water Management information required because the site is already served by Detention facilities as shown on the As-built Survey and less than 250 s.f. of impervious area is proposed to potentially be added in the future.**
- **We also request a Waiver of the Archaeological Survey Data form since the project is fully constructed.**

SPECIAL EXCEPTION STATEMENT OF JUSTIFICATION

- A. Type of Operation: Fast food (Tropical Smoothie)
- B. Hours: Opens 7:30 to 9am opens, 9pm close Monday to Saturday (10-7 Sunday)
- C. Estimated number of patrons: Varies on season, time of day, center type/location
- D. Proposed Number of employees: Varies, average 2-3.
- E. Estimate of traffic impact of proposed use: No change
- F. Vicinity to be served: Annandale-Braddock Road area
- G. There is no new façade being proposed, it was redone as a Capital improvement project last year.
- H. There are no known hazardous or toxic substances on the property.

I. STATEMENT ON CONFORMANCE & INTENT:

The intent of this SE is to put a 1,281 square foot Fast food operation into a building that currently has a Fast food component of the same size. With this SE, the total of the building's Fast food would be 100%, where 35% is allowed by Zoning.

This property has two buildings. One is a 2,463 square foot structure and the other is 61,630 square foot "Main" building. All store fronts on both buildings open to the same parking field and as such share the field.

The building that is subject to this SE is only 4% of the Shopping Center's 64,193 square feet of retail total. We, believe that limiting the 35% to fast food, as outlined in the Zoning Ordinance, should be contained to the site, and not individual buildings. The final positions of the Fast food should be the privy of the retailer and landlord.

Of note, currently the site has 8,665 square feet of Fast food which is 13.5% of the Total Shopping Center. A Tropical Smoothie's approval would bring the total to 9,946 square feet of Fast Food, only 15.5% of the total shopping center.

With this Special Exception, we also request the following Waivers/Modifications:

- **Transitional Screening and Barrier Modification for the North Property Line to allow for reduced Material and no Barrier in accordance with the Landscape Plan.**
- **Transitional Screening and Barrier Waiver along the North East property Line.**
- **Transitional Screening and Barrier Waiver along the Eastern Property Line.**
- **Waiver of providing a Road across the property as loosely shown on the Fairfax Comprehensive Plan.**

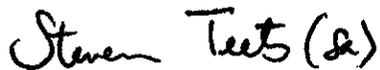
- **Open Space Reduction from 20% to 18.1% before the 4 spaces are added and 18% if the 4 spaces are added.**

We believe that the original open space calculation of 20% included the canopied walk in front of the stores. We are asking for this reduction in open space to match the existing conditions on the site.

We believe this is a very simple and justifiable Special Exception and that not only is the use allowable and does not harm or hurt any neighboring parcel, it in fact, creates another employer that will provide a different type of service and product not available in the immediate area.

We look forward to working with staff to get this approved as expeditiously as possible.

Edens & Avant



Steven F. Teets, L.S.
Sr. Project Manager

OWNERSHIP CONFIRMATION:

This document also confirms that the property is owned by Pinecrest (E&A) LLC and the applicant and the owner are one in the same.



FAIRFAX COUNTY

OFFICE OF THE CLERK
BOARD OF SUPERVISORS
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

Tel: 703-324-3151 Fax: 703-324-3926

V I R G I N I A

July 27, 1995

Lynne J. Strobel, Esquire
Walsh, Colucci, Stackhouse,
Emrich and Lubeley, P.C.
2200 Clarendon Boulevard
Thirteenth Floor
Arlington, Virginia 22201-3359

RE: Special Exception
Number SE 95-M-009

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on July 17, 1995, the Board approved Special Exception Number SE 95-M-009 in the name of Starbucks Coffee Company, located at Tax Map 72-1 ((1)) Pt. 20D, for use as a fast food restaurant in a Highway Corridor Overlay District pursuant to Section 9-611 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Exception Plat approved with the application, as qualified by these development conditions.
3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Department of Environmental Management (DEM). Any plan submitted pursuant to this Special Exception shall be in conformance with the approved Special Exception Plat entitled **Fresh Fields Plaza Special Exception Plat, and prepared by D.A. Bryant, P.C.**, which is dated November 23, 1994, as revised through May 4, 1994, and these conditions.

SEA 95-M-009
July 27, 1995

2.

4. The landscape island located on the south side of the travel aisle within the limits of the Special Exception shall be expanded to the north into a triangular shape in order to align with the existing travel aisle.
5. A parking tabulation for the entire shopping center shall be submitted to the Department of Environmental Management (DEM) to ensure the provision of adequate parking for each use on the site, subject to the review and approval of DEM. Non Residential Use Permits shall not be issued until adequate parking for the center has been demonstrated through a parking tabulation approved by DEM.
6. Supplemental landscaping shall be provided around the north and west boundary of the outdoor seating area to shield views of passing traffic, subject to the review and approval of the Urban Forester.

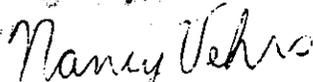
This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also waived the minimum lot size in accordance with Section 9-610 of the Zoning Ordinance.

If you have questions regarding the expiration of this Special Exception or filing a request for additional time they should be directed to the Zoning Evaluation Division of the Office of Comprehensive Planning at 703-324-1290. The mailing address for the Zoning Evaluation Division is Suite 801, 12055 Government Center Parkway, Fairfax, Virginia 22035.

Sincerely,



Nancy Vehrs

Clerk to the Board of Supervisors

SEA 95-M-009
July 27, 1995

3.

NV/ns

cc: John M. Yeatman, Director, Real Estate Dvs., Assessments
Melinda M. Artman, Deputy Zoning Administrator
Frank Jones, Assistant Chief, ZPRB, OCP
Audrey Clark, Chief, Inspection Srvs., BPRB, DEM
Barbara A. Byron, Director, Zoning Evaluation Dvsn., OCP
Robert Moore, Trnsprt'n. Planning Dvs., Office of Transportation
Paul Eno, Project Planning Section, Office of Transportation
Department of Environmental Management
Y. Ho Chang, Resident Engineer, VDOT
Land Acqu. & Planning Dvs., Park Authority

RECEIVED
OFFICE OF COMPREHENSIVE PLANNING

JUL 28 1995

ZONING EVALUATION DIVISION

L1 PINECREST COMMUNITY PLANNING SECTOR

CHARACTER

The Pinecrest Community Planning Sector is characterized by older, stable neighborhoods of low density, single-family detached houses. The more recent residential development includes single-family detached units -- Mt. Pleasant and Autumn Cove, townhouses -- Linmar, Autumn Glen and Barcroft Square, and the Orleans Village complex of garden apartments and townhouses. The Pinecrest, a large planned residential development, includes single-family detached dwellings, townhouses and garden apartments. Higher density residential areas tend to be located along the major thoroughfares.

A variety of commercial retail uses are located along Route 236 near the sector's boundary with the City of Alexandria. Other commercial uses are situated on the north side of Route 236, east of Braddock Road.

Turkeycock Run, an element of the countywide Environmental Quality Corridor system, runs through both public parkland and private residential yards, making linear pedestrian movement difficult. Investigations in Turkeycock Run and excavations at the Elliott site in a nearby sector have indicated the presence of potentially undisturbed prehistoric and historic archaeological resources in this sector and have demonstrated the potential for significant archaeological resources surviving in early and mid 20th century residential neighborhoods. The undeveloped portions of the Turkeycock Run watershed, in particular, are environmentally sensitive.

Green Spring Farm/Moss House is a significant heritage resource listed in the Fairfax County Inventory of Historic Sites, Virginia Landmarks Register and the National Register of Historic Places. A list and map of heritage resources are included in the Lincolnia Planning District Overview section, Figures 4 and 5. Additional historic sites in this sector are also included in the inventory.

CONCEPT FOR FUTURE DEVELOPMENT

The Concept for Future Development designates the areas of Pinecrest Planning Sector as Suburban Neighborhoods.

RECOMMENDATIONS

Land Use

The Pinecrest sector is largely developed as stable residential neighborhoods. Infill development within this sector needs to be for a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14.

Where substantial parcel consolidation is specified, the resulting projects need to function in a well-designed, efficient manner and provide for the development of unconsolidated parcels in conformance with the Area Plan.

Figure 9 indicates the geographic locations of the following land use recommendations for this sector.

1. Maintain the character of the low density single-family residential neighborhoods south of Lincolnia Road and east of Old Columbia Pike through infill development at a density of 1-2 dwelling units per acre.
2. The area north of Orleans Village and Linmar townhouses and south of Grace Baptist Church west to Turkeycock Run is planned for residential use at 1-2 dwelling units per acre.
3. Parcel 72-1((1))59 in the southwestern quadrant of the intersection of Braddock Road and Lincolnia Road is planned for residential use at 1-2 dwelling units per acre and developed for institutional uses. As conditions for any future changes or redevelopment proposed for this site:
 - Site development and provide screening and buffering to minimize the impact on adjacent areas planned for low density residential use; and
 - Design the development to be sensitive to the environmental constraints of the property, especially so as not to increase off-site storm drainage problems.
4. Limit commercial development on the north side of Route 236 to the area between Braddock Road and the Autumn Glen townhouse development at Merritt Road and to the existing development in the vicinity of Beauregard Street. As redevelopment occurs, provide pedestrian access to and from residential neighborhoods.
5. Parcel 72-2((1))44B, south of the Lincolnia Senior Center, is planned for multi-family residential development at 12-16 dwelling units per acre or single family attached residential development not to exceed 12 dwelling units per acre provided that 1) development of this site does not preclude roadway improvements planned for Beauregard Street and Lincolnia Road; 2) access to the site should be oriented to take into account the approved interchange concept for the Route 236/Beauregard Street flyover; 3) since access to Beauregard Street may become more limited with the future construction of the interchange, additional inter-parcel access should be encouraged to the west or south, to supplement the approved inter-parcel access through the Lincolnia Senior Center property; and 4) in lieu of on-site recreational facilities, consideration may be given to the enhancement of the recreational area behind the Lincolnia Senior Center, in order to better utilize and maintain this existing community recreational resource.
6. Parcels 72-1((1))27, 28, 29, 29A, 31, 32 and 34 on Merritt Road north of Autumn Glen townhouses are planned for residential use at 1-2 dwelling units per acre. With consolidation of all parcels, residential development up to 5 dwelling units per acre to continue the existing pattern of development is appropriate, provided that the project includes substantial open space along the perimeter of the tract, adjacent to the Turkeycock Run Stream Valley Park.
7. The vacant parcels located in the northwest quadrant of the intersection of Brookside Drive and Route 236, across from Turkeycock Run Park, are planned for residential development at 1-2 dwelling units per acre to be compatible with the adjacent single-family

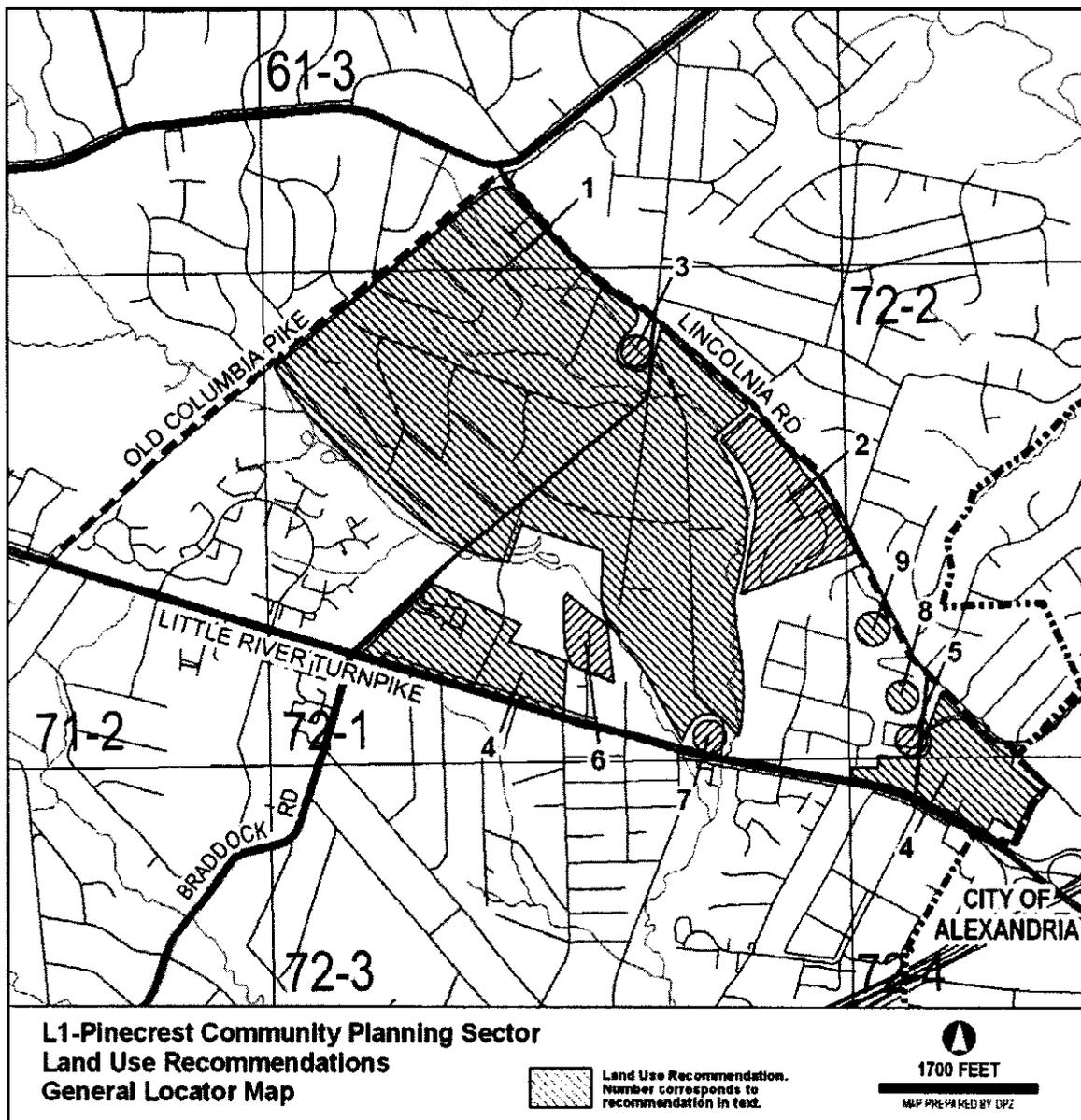


FIGURE 9

9-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special exception uses, all such uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular category or use, the Board shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the Board may impose more strict requirements for a given use than those set forth in this Ordinance.



9-611 Provisions for Approving Drive-In Banks, Fast Food Restaurants, Quick-Service Food Stores, Service Stations and Service Station/Mini-Marts in a Highway Corridor Overlay District

The Board may approve a special exception for the establishment or for the enlargement, extension, relocation or increase in intensity of a drive-in bank, fast food restaurant, quick-service food store or service station or service station/mini-mart in a Highway Corridor Overlay District, but only in accordance with the provisions of Part 6 of Article 7.

7-608 Use Limitations

All uses shall be subject to the use limitations set forth in the underlying zoning district(s), and, in addition, drive-in banks, fast food restaurants, quick-service food stores, service stations and service station/mini-marts shall be subject to the following use limitations:

1. In any Highway Corridor Overlay District:
 - A. Such a use shall be designed so that pedestrian and vehicular circulation is coordinated with that on adjacent properties.
 - B. Such a use shall have access designed so as not to impede traffic on a public street intended to carry through traffic. To such end, access via the following means may be given favorable consideration:
 - (1) Access to the site is provided by a public street other than one intended to carry through traffic, and/or
 - (2) Access to the site is provided via the internal circulation of a shopping center, which center contains at least six (6) other commercial uses, or an office complex having a limited number of well-designed access points to the public street system and no additional direct access is provided to the site from a public street intended to carry through traffic over and above those entrances which may exist to provide access to the shopping center, and/or
 - (3) Access to the site is provided by a functional service drive, which provides controlled access to the site.
 - C. There shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station or service station/mini-mart.
- NA 2. Where the underlying district is C-2, C-3 or C-4, in addition to Par. 1 above:
 - A. Service stations shall not include any uses such as vehicle or tool rental.

- B. Service stations shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than two (2) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

NA 3. Where the underlying district is C-5 or C-6, in addition to Par. 1 above:

- A. Service stations and service station/mini-marts shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than two (2) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours, subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

NA 4. Where the underlying district is C-7, C-8, C-9, I-3 or I-4, in addition to Par. 1 above:

- A. Service stations and service station/mini-marts shall not be used for the performance of major repairs, and shall not include the outdoor storage of more than four (4) abandoned, wrecked or inoperable vehicles on the site for more than seventy-two (72) hours subject to the limitation that there shall be no dismantling, wrecking or sale of said vehicles or parts thereof. In addition, in no event shall any one (1) abandoned, wrecked or inoperable vehicle be stored outdoors for a period exceeding seventy-two (72) hours.

NA 5. Where the underlying district is I-5 or I-6, in addition to Par. 1 above:

- A. Service stations and service station/mini-marts shall not be used for the performance of major repairs.



9-612 Provisions for Waiving Open Space Requirements

The Board may approve, either in conjunction with the approval of appropriate proffered conditions or as a special exception, the waiving of the open space requirement presented for a given zoning district and/or the open space requirement for cluster subdivisions set forth in Par. 4 of Sect. 2-309, but only in accordance with the following provisions:

- 1. Such waiver may be approved only if it will further the intent of the Ordinance, and the intent and implementation of the adopted comprehensive plan and other adopted policies.
- 2. Such waiver may be approved only if it is established that the resultant development will be harmonious with adjacent development.
- 3. Such a waiver may be approved only if the provisions of Article 13 are satisfied.
-

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

dBA: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area: information such as topography, location and size of proposed structures, location of streets trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

EASEMENT: A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, utility easement, construction easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Vol. 1 of the Comprehensive Plan.

ERODIBLE SOILS: Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

OPEN SPACE EASEMENT: An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

P DISTRICT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

URBAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		